Per R. Subhash Reddy, J

This appeal is directed against order dated 29.11.2005 passed by the learned Single Judge in Writ Petition No.2997 of 2005 whereby he rejected the appellant's prayer for being declared elected as Sarpanch of Gram Panchayat, Gattu Village in Mahabubnagar district.

Election to the post of Sarpanch, Gram Panchayat, Gattu was held on 14.8.2001. Respondent No.4 was declared elected because he secured 1193 votes as against 909 votes secured by the appellant. The appellant questioned the election of respondent No.4 by filing a petition in the Court of Civil Judge-Election Tribunal, Gadwal (for short 'the Tribunal'). He pleaded that respondent No.4 dominated the will of the voters by depositing a sum of Rs.4,00,000/- in favour of Sri Laxmi Venkateswara Jeernodharana Committee, Gattu, in State Bank of India, Gattu Branch; he lured voters to cast their votes by distributing sarees and banians; he influenced minds of voters by supplying intoxicants like toddy and in this manner the election was vitiated due to corrupt practices. He further pleaded that names of some eligible voters were removed from the voters list at the instance of respondent No.4 and this had adversely affected the result of election.

Respondent No.4 contested the election petition. He denied the allegations made by the appellant and averred that he had been declared elected on securing highest number of valid votes.

On the pleadings of the parties, the Tribunal framed the following issues:

1. Whether the petitioner is entitled for declaration of the election of the 4th respondent is void on the ground of corrupt practice?
2. To what relief?

The appellant examined himself as P.W.1. He also examined four other persons as P.Ws.2 to 5 and produced documentary evidence marked as Exs.A.1 to A.7. Respondent No.4 examined himself as R.W.2, apart from examining R.Ws.3 and 4 on his behalf. By order dated 18.1.2005, the Tribunal quashed the election of

respondent No.4. It held that the election of respondent No.4 is vitiated due to adoption of corrupt practices. In the opinion of the Tribunal, deposit of Rs.4.00 lakhs in the name of Sri Laxmi Venkateswara Jeernodharana Committee, Gattu was made with a view to influence the voters by attracting their religious sentiments. The Tribunal further held that respondent No.4 had distributed banians to the voters during election with a view to secure their votes in his favour. However, the Tribunal rejected the appellant's prayer for being declared elected as Sarpanch of the Gram Panchayat.

Respondent No.4 challenged the order of the Tribunal in Writ Petition No.2635 of 2005. The appellant also filed Writ Petition No.2997 of 2005 for quashing the order of the Tribunal to the extent of rejection of his prayer for being declared as Sarpanch.

By an order dated 29.11.2005, the learned Single Judge dismissed both the writ petitions.

Shri V. Subba Rao, learned counsel for the appellant argued that in view of the finding recorded by the Tribunal that the election of respondent No.4 is vitiated due to corrupt practices, it should have declared his client as duly elected to the post of Sarpanch. According to the learned counsel, the appellant should have been declared elected because the election of respondent No.4 was found to be nullity.

In our opinion, there is no merit in the contention of the learned counsel. The finding recorded by the Tribunal that election of respondent No.4 is vitiated due to corrupt practices did not automatically result in grant of a declaration that the appellant is duly elected. The question whether the electors who had voted in favour of respondent No.4 would have cast their votes in favour of the appellant if the former had not indulged in corrupt practices is a pure question of fact, the determination of which could have been made on the basis of evidence adduced before the Tribunal. However, on his part, the appellant did not adduce any evidence to prove that the voters, who had earlier cast their valid votes in favour of respondent No.4, would have voted in his favour. Therefore, the Tribunal did not commit any error in refusing to entertain the appellant's prayer for being declared as duly elected to the post of Sarpanch and the learned Single Judge rightly dismissed the writ petition.

No other point has been argued.

For the reasons mentioned above, the appeal is dismissed.

R. SUBHASH REDDY, J

3rd January, 2006 **G.S. SINGHVI, CJ**

msnr/vtv